



INTERIOR BOARD OF INDIAN APPEALS

William Foreman and Sharon (Foreman) Byers v. Anadarko Area Director,
Bureau of Indian Affairs

22 IBIA 183 (07/17/1992)

Reconsideration denied:
22 IBIA 239



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

WILLIAM FOREMAN and
SHARON (FOREMAN) BYERS,
Appellants

v.

ANADARKO AREA DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Affirming Decision
:
:
:
: Docket No. IBIA 92-120-A
:
:
:
: July 17, 1992

Appellants William Foreman and Sharon (Foreman) Byers sought review of a December 27, 1991, decision of the Anadarko Area Director, Bureau of Indian Affairs (Area Director), approving a unitization plan affecting the allotment of Kah-ke-wep-a-se (Lucinda Duncan), deceased Absentee Shawnee Allottee No. 51. Appellants each own an undivided interest in the allotment, which was covered by Oil and Gas Lease Contract Nos. 14-20-208-3687 and 14-20-208-3688. The unitization plan had been submitted by Estoril Producing Corporation, the unit operator.

Two notices of appeal were filed. One notice of appeal, signed only by William Foreman, states in its entirety: "This is to inform you of my decision to appeal the decision of December 27, 1991 in which the Bureau of Indian Affairs approved the Plan of Unitization submitted by Estoril Producing Corporation. The unit agreement affects the Allotment of Kah-ke-wep-a-se (Lucinda Duncan)." The second notice of appeal, signed by both William Foreman and Sharon (Foreman) Byers, states:

Since the date of the decision of the Bureau of Indian [Affairs] our Mother, Delphine Foreman, has died. As her heirs we desire to appeal the decision of the Bureau of Indian Affairs on behalf of her estate.

This is to inform you of our decision to appeal the decision of December 27, 1991 in which the Bureau of Indian Affairs approved the Plan of Unitization submitted by Estoril Producing Corporation. The unit agreement affects the Allotment of Kah-ke-wep-a-se (Lucinda Duncan).

Appellants did not file a brief. Estoril Producing Corporation filed a brief in support of the Area Director's decision.

In appeals arising under 25 CFR Part 2, as this appeal does, the appellant bears the burden of proving that the agency decision complained of was erroneous or not supported by substantial evidence. See, e.g., Ames v.

Acting Billings Area Director, 20 IBIA 246 (1991), and cases cited therein. In the present case, the notices of appeal do not set forth any grounds for the appeal, and although informed of their right to do so, appellants did not file a brief indicating those grounds. Because they have not given any reasons for the appeal, or attempted to show the error in the Area Director's decision, appellants have not sustained their burden of proof.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the December 27, 1991, decision of the Anadarko Area Director is affirmed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge